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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/880,321	06/12/2001	Dean S. Nelson	10007613-1	5515

7590 02/22/2005

HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P.O. Box 272400
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EXAMINER	
KISS, ERIC B	
ART UNIT	PAPER NUMBER
2122	

DATE MAILED: 02/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/880,321

Applicant(s)

NELSON ET AL.

Examiner

Eric B. Kiss

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 November 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The reply filed 9 November 2004 has been received and entered. Claim 19 is the sole pending claim.

Response to Arguments

2. Applicant's arguments filed 9 November 2004 have been fully considered but they are not persuasive.

In response to Applicant's arguments on p. 3 of the response filed 9 November 2004, the Examiner submits that the GNU GPL reference does not teach away from the use of the prescribed control logic just because it fails to mention the generation of any license other than GNU GPL. The teaching of applying the GNU General Public License where appropriate (based on, for example, the GNU GPL controlling one or more subcomponents of a product being developed) equates to *generating a potential license* (in this case, choosing the GNU GPL) *for the product according to a stored history of all component dependencies and product attributes* (for example, the copy of the GNU GPL that is required to be distributed, and thus stored, with any component controlled by the GNU GPL; see condition number 1 on page 2 of the GNU GPL reference). The copy of the GNU General Public License distributed with a software component (1) identifies that software component as being licensed under the terms of the GPL, and (2) contains explicit instructions for selecting the GPL for derivative works.

Claim Rejections - 35 USC § 103

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

4. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over “GNU General Public License,” Version 2, June 1991 (hereinafter *GPL*).

As per claim 19, *GPL* discloses that any software product based on an outside-party’s software component that is distributed under the terms of the GNU General Public License must also be distributed under the terms of the GNU General Public License (see, for example, item number 3 on p. 3). *GPL* further discloses that failure to comply with the terms of the GNU General Public License results in no grant of permission to modify or distribute that software component (see, for example, item number 5 on p. 3), and if the developer of the software product is not also the copyright holder of the software component, then failure to comply with the license terms (under the GNU General Public License) of the software component would likely result in a software product that improperly incorporates copyrighted material from the software component, which is prohibited by law (see, for example, item number 5 on p. 3).

The teaching of applying the GNU General Public License where appropriate (based on, for example, the GNU GPL controlling one or more subcomponents of a product being developed) equates to *generating a potential license* (in this case, choosing the GNU GPL) *for the product according to a stored history of all component dependencies and product attributes*

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(for example, the copy of the GNU GPL that is required to be distributed, and thus stored, with any component controlled by the GNU GPL; see condition number 1 on page 2 of the GNU GPL reference). The copy of the GNU General Public License distributed with a software component (1) identifies that software component as being licensed under the terms of the GPL, and (2) contains explicit instructions for selecting the GPL for derivative works.

While not expressly disclosed by GPL, the acts of identifying the attributes and resolving the attributes to determine licensing dependencies for the product are merely necessary steps in meeting the legal requirements of the GNU General Public License in a software product that uses (incorporates or modifies) any outside-party software component falling under the requirements of said license. While these acts are not required for the resulting product to function (in terms of computer-execution results) as intended, failure to perform these acts would be recognized by one of ordinary skill in the computer art as undesirable, as the resulting product may violate one or more legal requirements of the GNU General Public License, as discussed above. Therefore, it would have been obvious to one of ordinary skill in the computer art at the time the invention was made to perform such acts of identifying the attributes and resolving the attributes to determine licensing dependencies for the product in view of the disclosure of *GPL*. One would be motivated to do so, for example, to avoid potential civil and criminal penalties for copyright infringement.

In addition, although these steps are not taught as being implemented through the use of a computing system comprising data and control logic, such computing systems merely recite the use of known expedients in accomplishing the tasks addressed as set forth above. See *In re Venner*, 262 F.2d 91, 95, 120 USPQ 193, 194 (CCPA 1958) Broadly providing an automatic or

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mechanical means to replace a manual activity which accomplished the same result is not sufficient to distinguish over the prior art. It would have been obvious to one of ordinary skill in the computer art at the time the invention was made to use such known expedients in determining/assuring license compliance in computer software technology, as discussed above. One would be motivated to do so achieve greater efficiency in performing the above-described tasks.

Conclusion

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

6. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Eric B. Kiss whose telephone number is (571) 272-3699. The


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Examiner can normally be reached on Tue. - Fri., 7:00 am - 4:30 pm. The Examiner can also be reached on alternate Mondays.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Tuan Dam, can be reached on (571) 272-3695. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

EBK / EBK
February 15, 2005



TUAN DAM
SUPERVISORY PATENT EXAMINER